

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.15048 OF 2019

Limbaji s/o Bhivsan Taru & another Petitioners

Versus

The State of Maharashtra & others Respondents

Mr.G.N.Chincholkar, advocate for the Petitioners.
Mr.K.B.Jadhavar, AGP for Respondents No.1 & 2.

CORAM : V.K.JADHAV, J.

DATE : 17th March, 2021.

PC :

1 Heard learned Counsel for the petitioners and learned AGP for Respondents No.1 & 2. Though Respondents No.4 and 5 are served with the notice of final disposal at the stage of admission, none appears for them.

2 The learned Counsel for the petitioners submits that though there is evidence about transfer of amount by Respondent No.4-Sarpanch to her son Respondent No.5 through two cheques to the tune of Rs.65,000/- and Rs.25,000/-, respectively, the learned Additional Divisional Commissioner has remanded the matter to the learned Collector for deciding the dispute afresh.

3 The learned Counsel for the petitioners submits that Respondent No.4, in terms of provisions of Section 14 (1) (g) of the Maharashtra Village Panchayats Act, has incurred disqualification and the said transfer of the amount through two cheques to the son i.e. Respondent No.5 itself indicates that Respondent No.4 has interest or share in the work done under the orders of the Panchayat. The learned Counsel submits that the learned Collector has passed the order in favour of the petitioners declaring that Respondent No.4 has incurred disqualification in terms of provisions of Section 14 (1) (g) of the Maharashtra Village Panchayats Act, however, the learned Additional Divisional Commissioner has remanded the matter to the learned Collector solely on the ground that there should have been inquiry by the Block Development Officer pertaining to the said transaction and the learned Collector shall decide the dispute afresh after conducting preliminary inquiry, to the extent, as observed.

4 The learned AGP submits that the learned Additional Divisional Commissioner has observed that the elected Gram Panchyat Member cannot be unseated only on the basis of certain transfer of amount through cheques in the name of her son. The

learned AGP submits that unless and until inquiry is conducted, it cannot be said positively that Respondent No.4 has incurred disqualification in terms of provisions of Section 14 (1) (g) of the Maharashtra Village Panchayats Act.. The learned AGP submits that in case of disqualification as contemplated under Section 14 (1) (g) of the Maharashtra Village Panchayats Act, there is hardly any evidence in the manner by transferring the amount through the cheques. The learned AGP submits that while disposing of this writ petition, necessary directions may be given to the learned Collector to decide the dispute in a time bound manner.

5 Though there is *prima facie* evidence about the transfer of the amount to the tune of Rs.90,000/- through two cheques by Respondent No.4-Sarpanch in the name of her son Respondent No.5, however, the learned Additional Divisional Commissioner has rightly observed that unless and until preliminary inquiry is conducted about the said transaction, elected Gram Panchayat Member cannot be unseated.

6 I have carefully gone through the order passed by the learned Collector. It appears that the learned Collector has held that Respondent No.4 incurred disqualification mainly on the

ground of transfer of amount through cheques in the name of her son.

7 I agree with the submissions made by the learned AGP that if Respondent No.4 has directly or indirectly any share or interest in the work done by the order of the Panchayat or in any contract with, by or on behalf of the Panchayat, there is hardly any transfer of the amount through cheques. It further appears that Respondent No.4 has not responded to the notice about final hearing of the petition, however, defence has been raised about the valid transaction. In view of the same, I find no fault with the order passed by the learned Additional Divisional Commissioner remanding the matter to the learned Collector to decide it afresh by making a preliminary inquiry through the Block Development Officer, if so required, about the said payment to Respondent No.5 through two cheques by Respondent No.4. It may or it may not reveal in the said inquiry as to whether there is any resolution passed in the meeting of the Gram Panchayat about payment to be made or any other thing which may be relevant for just disposal of the dispute.

8 Hence, I proceed to pass the following order:

- (a) Writ Petition is hereby dismissed.
- (b) The learned Collector is hereby directed to decide the dispute as expeditiously as possible, preferably within three months from the date of appearance of the petitioners before the learned Collector.
- (c) The learned Collector shall also issue notice to Respondents No.4 and 5.
- (d) On appearance of both the parties to the dispute, the learned Collector shall decide the dispute afresh in a time bound manner, as directed above.

(V.K.JADHAV)
JUDGE

adb